

REMARKS

Favorable reconsideration of this application, in light of the preceding amendments and following remarks, is respectfully requested.

Claims 1-18 are pending in this application, with new claim 18 being added by the present Amendment.

Information Disclosure Statement

Applicants thank the Examiner for indicating that the references submitted in the Information Disclosure Statement filed on August 16, 2006, have been considered.

Foreign Priority

Applicants note with appreciation the Examiner's acknowledgement that certified copies of all priority documents have been received by the U.S.P.T.O.

Drawings

Applicants also respectfully note the present action indicates that the drawings have been accepted by the Examiner.

Rejections under 35 U.S.C. § 112

Claim 17 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject

matter. Applicants respectfully traverse this rejection for the reasons detailed below.

Examples of corresponding structure may be found throughout the specification. For example, corresponding structure for each of the limitations of claim 17 may be as follows:

the “means for receiving the event” limitation is supported by the collaboration module 18 and by, for example, paragraphs [0038] of the subject substitute specification;

the “means for identifying” limitation is supported by the collaboration module 18 and by, for example, paragraphs [0037] of the subject substitute specification;

the “means for providing a communications platform” limitation is supported by the communication module 36 and by, for example, paragraphs [0037] of the subject substitute specification;

the “means for checking the collaboration” limitation is supported by the monitoring module 44 and the verification criterion 45 and by, for example, paragraphs [0045] of the subject substitute specification;

The Applicants, therefore, respectfully request reconsideration and withdrawal of the rejection to claims 17 under 35 U.S.C. § 112.

Rejections under 35 U.S.C. § 101

Claims 1-16 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicants respectfully traverse this rejection for the reasons detailed below.

As the Examiner is likely aware, the Court of Appeals for the Federal Circuit (CAFC) issued a decision in *In re Bilski* which addresses the test for patent-eligible processes within the meaning of 35 U.S.C. § 101. The decision in *Bilski* re-affirmed the tests set forth by the Supreme Court in *Diamond v. Diehr*, 450 U.S. 175 (1981). Namely, the CAFC in *Bilski* stated that "[a] claimed process is surely patent-eligible under § 101 if:

- (1) it is tied to a particular machine or apparatus, or
- (2) it transforms a particular article into a different state or thing.

Bilski at 10.

Claim 1 recites:

A method for a clinical study, in which an occurrence of an event during the study elicits collaboration between responsible study personnel, the method comprising:

- receiving the event at *a collaboration system*;
- identifying, via *the collaboration system* and on the basis of parameters assigned to the event, a group of responsible study personnel needed for the collaboration;
- providing, via *the collaboration system*, a communications platform for the group to undertake the collaboration; and
- checking, via *the collaboration system*, the collaboration on the basis of verification criteria.

As the Examiner will appreciate, claim 1 is indeed tied to a particular machine or apparatus namely "*the collaboration system*." Therefore, the method of claim 1 is statutory subject matter eligible. Claims 2-16 are statutory at least for being dependent upon a statutory base claim.

The Applicants, therefore, respectfully request reconsideration and withdrawal of the rejection to claims 1-16 under 35 U.S.C. § 101.

Rejections under 35 U.S.C. § 102

Claims 1-2, 4-5, 7-9, 13 and 15-17 stand rejected under 35 U.S.C. § 102(b) as being anticipated by US Patent Publication No. 2002/0154010 A1 to Tu et al. ("Tu"). Applicants respectfully traverse this rejection for the reasons detailed below.

The Examiner asserts that Tu paragraph [0018] discloses "receiving the event at a collaboration system," as recited in claim 1. Applicants respectfully disagree.

Paragraph [0018] of Tu states:

The present invention relates to an event notification system. Upon detection of various events and/or conditions with respect to the events, the present invention enables a notification message to be sent in accordance with a set of notification preferences. In this manner, notification may be provided to the appropriate entities in a manner suitable for the situation prompting the notification.

Further, paragraph [0017] of Tu describes that the events are the result of a business enterprise system being monitored to detect various events deemed important to the business enterprise.

In addition, Tu paragraph [0063] teaches that one or more entities are given the responsibility to resolve the exception, while a notification (mentioned above with regard to paragraph [0018]) may merely serve to notify an individual of the exception. In this manner, multiple entities may collaborate to resolve an issue. These entities may be individuals or groups of individuals, such as a department within a business. In summary, exception(s) 120 or notification(s) generated by the agent 118 may indicate a variety of circumstances requiring further action or attention by another component in the system. Similarly, the

exception(s) 120 or notification(s) generated by the agent 118 may indicate circumstances requiring human intervention.

Tu does not teach or fairly suggest “receiving the event at a collaboration system,” as required by claim 1. By contrast, Tu discloses a business enterprise that monitors events within the business enterprise.

The Examiner asserts that the message bus shown in Tu FIG. 1 discloses “providing, via the collaboration system, a communications platform for the group to undertake the collaboration,” as recited in claim 1. Applicants respectfully disagree.

Paragraph [0060] teaches that the adapter 102 may be connected directly to various components that enable event detection and notification, a **message bus** is preferred, since this facilitates and simplifies the addition and removal of components. Tu does not teach or fairly suggest “providing, via the collaboration system, a communications platform for the group to undertake the collaboration,” as required by claim 1. By contrast Tu teaches a system interconnecting bus not a communications platform.

The Examiner asserts that Tu paragraph [0124] discloses “checking, via the collaboration system, the collaboration on the basis of verification criteria,” as recited in claim 1. Applicants respectfully disagree.

Paragraph [0124] of Tu describes a followed-by paired event type. A followed-by paired event type are two events where the second event follows a first event. Prior to starting the second event, a match determination is made to determine if the second event is associated with the first event. If the second event matches, the second event starts. If the second event does not match,

the second event is discarded. A persist flag is set based on this match and the Examiner relies on a checking of this persist flag to teach the aforementioned feature. Clearly, a checking of a persist flag does not teach or fairly suggest “checking, via the collaboration system, the collaboration on the basis of verification criteria,” as required by claim 1. By contrast, Tu teaches the monitoring of time-relevant criteria that can lead to triggering an event.

For at least the aforementioned reasons, Tu does not teach or fairly suggest each and every limitation of claim 1. Because Tu does not teach or fairly suggest each and every limitation of claim 1, Tu does not anticipate or render claim 1 obvious. Claim 17 is patentable at least for reasons somewhat similar to those discussed above with regard to claim 1, noting that claim 1 should be interpreted solely based on the limitations set forth therein. Claims 2, 4-5, 7-9, 13 and 15-16 are patentable at least by virtue of their dependency from claim 1.

The Applicants, therefore, respectfully request reconsideration and withdrawal of the rejection to claims 1-2, 4-5, 7-9, 13 and 15-17 under 35 U.S.C. § 102(b).

Rejections under 35 U.S.C. § 103

Tu/Wagner/Schmidt/Official Notice taken by Examiner

Claims 3, 12 and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over US Patent Publication No. 2002/0154010 A1 to Tu in view of US Patent No. 6,092,102 to Wagner (“Wagner”).

Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over US Patent Publication No. 2002/0154010 A1 to Tu in view of US Patent No. 6,839,678 B1 to Schmidt et al. ("Schmidt").

Claims 10-11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over US Patent Publication No. 2002/0154010 A1 to Tu in view of Official Notice taken by Examiner.

Applicants respectfully traverse these rejections in that even assuming *arguendo* that Wagner, Schmidt and/or Official Notice taken by Examiner could be combined with Tu (which Applicants do not admit), the combination of references fails to render even claim 1 obvious because Wagner, Schmidt and Official Notice taken by Examiner suffer from at least the same deficiencies as Tu with respect to claim 1. Therefore, even in combination, Tu in view of Wagner, Schmidt and/or Official Notice taken by Examiner fails to render claims 3, 6, 10-12 and 14 obvious because claims 3, 6, 10-12 and 14 depend from claim 1. Withdrawal of these rejections is requested.

Further, Applicants specifically traverse the Examiner's reliance on Official Notice in making the above rejection to claims 10 and 11. The Examiner is reminded of the guidelines for using Official Notice as required by MPEP § 2144.03.

Official notice without documentary evidence to support an examiner's conclusion is permissible **only in some circumstances**. While "official notice" may be relied on, these circumstances should be rare when an application is under final rejection or action under 37 CFR 1.113. Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art **are capable of instant and unquestionable demonstration as being well-known**. Emphasis added

It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. For example, assertions of technical facts in the areas of esoteric technology or specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art. Emphasis original.

Applicants respectfully request the Examiner demonstrate the subject matter of claims 10 and 11 are well known to one skilled in the art by providing documentary evidence and citing a prior art reference.

Applicants further assert that documenting and archiving a collaboration is not unquestionably well-known. As asserted in, for example, paragraphs [0006]-[0011] of the subject substitute specification, efforts associated with a collaboration are often uncoordinated. Therefore, information about a collaboration is not documented or archived.

Applicants respectfully request the Examiner withdraw the rejection of claims 10 and 11 because the subject matter of claims 10 and 11 is not unquestionably well-known.

New Claims

New claim 18 has been added in an effort to provide further protection for Applicants' invention, no new matter has been added. New claim 18 is allowable at least for reasons somewhat similar as those regarding claim 1 although each claim should be interpreted solely based upon the limitations set forth therein.

CONCLUSION

In view of the above remarks and amendments, the Applicants respectfully submit that each of the pending objections and rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.


Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By

 4/1/08
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